

The sixty-day public comment period for the rule changes began on January 29, 2004 and will end on March 29, 2004.

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Article 1. General Provisions

R2-20-101. Definitions

In addition to the definitions provided in A.R.S. §§ 16-901 and 16-961, the following shall apply to the chapter, unless the context otherwise requires:

1. "Act" means the Citizens Clean Elections Act set forth in the Arizona Revised Statutes, Title 16, Chapter 6, Article 2.
2. "Audit" means a written report pertaining to an examination of a candidate'S **CAMPAIGN FINANCES** that is reviewed by the Commission in accordance with A.A.C. Title 2, Article 4.
3. "Campaign account" means an account designated by a political committee that is used solely for political campaign purposes as required in A.R.S. § 16-902(C).
4. "Candidate" means an individual who receives or gives consent for receipt of a contribution for ~~HIS THE CANDIDATE'S~~ nomination for or election to any office in this state, ~~PURSUANT TO THE ACT~~, and includes a candidate's campaign committee, the political committee designated and authorized by a candidate, or any agents or personnel of the candidate.
5. "Current campaign account" means a campaign account used solely for election campaign purposes in the present election cycle.
6. "Direct campaign purpose" includes, but is not limited to, materials, communications, transportation, supplies and expenses used toward the election of a candidate. This does not include the candidate's personal appearance, support, or support of a candidate's family member.
7. "Early contributions" means private contributions that are permitted pursuant to A.R.S. § 16-945.
8. "Election Cycle," for the purpose of providing equalizing funds, means the time period between 21 days after the preceding general election and the current general election date.

9. "Examination" means an inspection by the Commission or agent of the Commission of a candidate's books, records, accounts, receipts, disbursements, debts and obligations, bank account records, and campaign finance reports related to the candidate's campaign, which may include fieldwork, or a visit to the campaign headquarters, to ensure compliance with campaign finance laws and rules.
10. "Expressly advocates" means:
- a. Conveying a communication containing a phrase such as "vote for", "elect", "re-elect", "support", "endorse", "cast your ballot for", "(name of candidate) in (year)", "(name of candidate) for (office)", "vote against", "defeat", "reject", or a campaign slogan or words that in context can have no reasonable meaning other than to advocate the election or defeat of one or more clearly identified candidates.
 - b. Making a general public communication, such as in broadcast medium, newspaper, magazine, billboard, or direct mailer referring to one or more clearly identified candidates and targeted to the electorate of that candidate(s):
 - i. That in context can have no reasonable meaning other than to advocate the election or defeat of the candidate(s), as evidenced by factors such as the presentation of the candidate(s) in a favorable or unfavorable light, the targeting, placement, or timing of the communication, or the inclusion of statements of the candidate(s) or opponents, or
 - ii. In the 16 week-period immediately preceding a general election.
 - c. A communication within the scope of paragraph b shall not be considered as one that "expressly advocates" merely because it presents information about the voting record or position on a campaign issue of three or more candidates, so long as it is not made in coordination with a candidate, political party, agent of the candidate or party, or a person who is coordinating with a candidate or candidate's agent.
11. "Family member" means parent, grandparent, spouse, child, or sibling of the candidate or a parent or spouse of any of those persons.
12. "Fair market value" means the amount at which property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or sell and both having reasonable knowledge of the relevant facts.
- 13. "FIXED ASSET" MEANS TANGIBLE PROPERTY USABLE IN A CAPACITY THAT WILL BENEFIT THE CANDIDATE FOR A PERIOD OF MORE THAN ONE YEAR FROM THE DATE OF ACQUISITION.**
14. "Fund" means the Citizens Clean Elections Fund established pursuant to A.R.S. § 16-949(D).
15. "Future campaign account" means a campaign account that is used solely for campaign election purposes in an election that does not include the present or prior primary or general elections.

16. "Independent candidate" means a candidate who is registered as an independent or with no party preference or who is registered with a political party that is not ~~qualified for representation~~ **ELIGIBLE FOR RECOGNITION** on the ballot.
17. "Prior campaign account" means a campaign account used solely for campaign election purposes in a prior election.
18. "Public funds" includes all funds deposited into the Citizens Clean Elections Fund and all funds disbursed by the Commission to a participating candidate.
19. "Opposed" means a candidate who will appear on the ballot and:
 - A. In a primary election for ~~the State House of Representatives~~ **STATE REPRESENTATIVE**, a candidate who has opposition for the same office from two members of the same party or will be opposed in the general election by two or more other candidates for the same office. Such opposition in the general election can be from an independent candidate, a candidate from another party, or a candidate who is a member of a political party that is not eligible **FOR RECOGNITION** ~~to appear~~ on the ballot.
 - B. In a party primary election for any office but **STATE REPRESENTATIVE**, a candidate who has opposition for the same office from a member of the same party, or will be opposed in the general election by an independent, a candidate from another party, or a candidate who is a member of a political party that is not eligible **FOR RECOGNITION** ~~to appear~~ on the ballot.
 - C. In the general election for state representative, a candidate who has at least two opponents on the ballot, competing for election in the same district.
 - D. In the general election for any office but state representative, has at least one opponent on the ballot, competing for the same office.
20. "Solicitor" means a person who is eligible to be registered to vote in this state and seeks qualifying contributions from qualified electors of this state.

R2-20-103. COMMUNICATIONS: TIME AND METHOD

- A. General rule: In computing any period of time prescribed or allowed by the Act or these rules, unless otherwise specified, days are calculated by calendar days, and the day of the act, event, or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday, or a legal holiday. The term "legal holiday" includes New Year's Day, Martin Luther King, Jr. Day, President's Day, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans Day, Thanksgiving Day, Christmas Day, and any other day appointed as a holiday for employees of the state.
- B. Special rule for periods less than 7 days: When the period of time prescribed or allowed is less than 7 days, intermediate Saturdays, Sundays, and legal holidays shall be excluded in the computation.
- C. Special rule for service by regular mail: Whenever the Commission or any person has the right or is required to do some act within a prescribed period after the service of any paper by or upon the Commission by regular mail, 3 calendar days shall be added to the prescribed period.

- D. Special rule for service by certified mail: Whenever the Commission or any person is required to do some act within a prescribed period after the service of paper by or upon the Commission, the time period shall begin on the date the recipient signs for the certified mail. If the recipient does not date the certified mail receipt, the postmark on the certified mail receipt will be used as the date of receipt.
- E. The Commission shall use the address of the candidate that is provided on the application for certification filed pursuant to A.R.S. §16-947. A candidate may designate in writing for the Commission to send written correspondence to a person other than the candidate.
- F. If possible, the commission shall furnish a copy of all communications electronically.
- G. Delivery of subpoenas, orders and notifications to a natural person may be made by handing a copy to the person, or leaving a copy at his or her office with the person in charge thereof, by leaving a copy at his or her dwelling place or usual place of abode with a person of suitable age and discretion residing therein, by mailing a copy by registered or certified mail to his or her last known address, or by any other method whereby actual notice is given. ~~; INCLUDING ELECTRONIC MAIL OR FACSIMILE.~~
- H. When the person to be served is not an individual, delivery of subpoenas, orders and notifications may be made by mailing a copy by registered or certified mail to the person at its place of business or by handing a copy to a registered agent for service, or to any officer, director, or agent in charge of any office of such person, or by mailing a copy by registered or certified mail to such representative at his or her last known address, or by any other method whereby actual notice is given.

R2-20-104. Certification as a participating candidate

- A. A nonparticipating candidate who accepts contributions up to the limits authorized by A.R.S. § 16-905, but later chooses to run as a participating candidate, shall:
 - 1. Make the change to participating candidate status during the exploratory and qualifying periods only;
 - 2. Return the amount of each contribution in excess of the individual contribution limit for participating candidates;
 - 3. Return all Political Action Committee (PAC) monies received.
 - 4. Not have spent contributions exceeding the early contribution limit, or any part of a contribution exceeding the early contribution limit;
 - 5. Comply with all provisions of A.R.S. § 16-941.
- B. ~~SURPLUS~~ money from prior election. If a nonparticipating candidate has ~~SURPLUS MONEY~~ **A CASH BALANCE** remaining in the campaign account from the prior election cycle, the candidate may seek certification as a participating candidate in the current election after:
 - 1. Transferring money from the prior campaign account to the candidate's current election campaign account. The amount transferred shall not exceed the permitted personal monies, early contributions, and debt-retirement contributions, as defined in A.R.S. § 16-945(C);
 - 2. Spending the money lawfully prior to April 30 of an election year in a way that does not constitute a direct campaign purpose and does not meet the definition of

- "expenditure" under A.R.S. § 16-901(8); and the event or item purchased is completed or otherwise used and depleted prior to April 30 of an election year;
3. Remitting the money to the Fund;
 4. Disposing of the ~~surplus~~ money in accordance with A.R.S. § 16-915.01; or
 5. Holding the ~~surplus~~ money in the prior election campaign account, not to be used during the current election, except as provided pursuant to this rule.
- C. Application for certification as a participating candidate. Pursuant to A.R.S. § 16-947, a candidate seeking certification shall file with the Secretary of State a Commission-approved application and a campaign finance report reflecting all campaign activity to date, in accordance with A.R.S. § 16-915. In the application, a candidate shall certify under oath that the candidate:
1. Agrees to use all Clean Elections funding for direct campaign purposes only;
 2. Has filed a campaign finance report, showing all campaign activity to date in the current election cycle;
 3. Will comply with all requirements of the Act and Commission rules;
 4. Is subject to all enforcement actions by the Commission as authorized by the Act and Commission rules;
 5. Has the burden of proving that expenditures made by or on behalf of the candidate are for direct campaign purposes;
 6. Will keep and furnish to the Commission all documentation relating to expenditures, receipts, funding, books, records (including bank records for all accounts), and supporting documentation and other information that the Commission may request;
 7. Will permit an audit or examination by the Commission of all receipts and expenditures including those made by the candidate. The candidate shall also provide any material required in connection with an audit, investigation, or examination conducted by the Commission. The candidate shall facilitate the audit by making available in one central location, such as the Commission's office space, records and such personnel as are necessary to conduct the audit or examination, and shall pay any amounts required to be repaid;
 8. Will submit the name and mailing address of the person who is entitled to receive equalizing fund payments on behalf of the candidate and the name and address of the campaign depository designated by the candidate. Changes in the information required by this paragraph shall not be effective until submitted to the Commission in a letter signed, or submitted electronically, by the candidate or the committee treasurer;
 9. Will pay any civil penalties included in a conciliation agreement or otherwise imposed against the candidate;
 10. Will timely file all campaign finance reports with the secretary of state in an electronic format.
 11. Will file an amended application for certification reporting any change in the information prescribed in the application for certification within five days after the change.
- D. If certified as a participating candidate, the candidate shall:

1. Only accept early contributions from individuals during the exploratory and qualifying periods in accordance with A.R.S. § 16-945. No contributions may be accepted from political action committees, political parties or corporations;
 2. Not accept any private contributions, other than early contributions and a limited number of \$5 qualifying contributions;
 3. Make expenditures of personal monies of no more than the amounts prescribed in A.R.S. § 16-941(A)(2) for legislative candidates and for statewide office candidates;
 4. Conduct all activity through a single campaign account. A participating candidate shall only deposit early contributions, qualifying contributions and Clean Elections funds into the candidate's current campaign account. The campaign account shall not be used for any non-direct campaign purpose as provided in article 7 of these rules;
1. Attend at least 1 candidate training class sponsored by the Commission, and cause the candidate's campaign treasurer to attend at least 1 candidate training class, during the election cycle. If the candidate or the treasurer is unable to attend a training class, the candidate or treasurer shall:
 - a. Notify the commission that the candidate or treasurer is unable to attend a training class. The Commission then will send that person the Commission training materials; and
 - b. The candidate or treasurer shall sign and send to the Commission a statement certifying that he or she has received and reviewed the Commission training materials;
 2. Limit campaign expenditures. Prior to qualifying for clean elections funding, a candidate shall not incur debt, or make an expenditure in excess of the amount of cash on hand. Upon approval for funding by the Secretary of State's office, a candidate may incur debt, or make an expenditure, not to exceed the sum of the cash on hand and the applicable spending limit.
- E. Personal loans. A participating candidate may loan his or her campaign committee personal monies during the exploratory and qualifying periods only. The total sum of the loans shall not exceed the personal monies expenditure limits set forth in A.R.S. § 16-941(A)(2). If the loan is to be repaid, the loans shall be repaid promptly upon receipt of Clean Elections funds if the participating candidate qualifies for Clean Elections funding. Loans from a bank, or other institution listed in A.R.S. § 16-901(5)(b)(vii) to a candidate shall be considered personal monies and shall not exceed the personal monies expenditure limits set forth in A.R.S. § 16-941(A)(2).

- F. Officeholder Expenses. Prior to April 30 of an election year, an elected official may raise or spend money to defray the expense of performing officeholder duties, and the event or item purchased shall be completed or otherwise used and depleted prior to April 30 of an election year, as follows:
1. The candidate may first exhaust all surplus monies from prior campaign accounts pursuant to subsection B of this rule or may use personal monies for officeholder expenses;
 2. Money raised shall be only from individuals and the maximum raised from an individual during the election cycle shall not exceed **ONE-HALF** the early contribution limit;
 3. The sum of the money raised shall not exceed 2 times the early contribution limit applicable to the officeholders current office;
 4. For an officeholder's future campaign as a:
 - a. Participating Candidate
 - i. Money raised pursuant to this subsection will not be deemed early contributions, and
 - ii. Personal money spent pursuant to this subsection shall not apply to personal money expenditure limits provided in A.R.S. § 16-941(A)(2).
 - b. Nonparticipating Candidate
 - i. Money raised or spent pursuant to this subsection will not be calculated in matching funds to opponents as provided in A.R.S. § 16-952, and
 - ii. Money raised or spent pursuant to this subsection will not trigger the reporting requirements provided in A.R.S. §§ 16-941(D) & -958.
 5. Any money raised or spent in excess of the limits established in this rule, however, shall be calculated as early contributions or personal monies for participating candidates, or for matching funds and reporting requirements for nonparticipating candidates;
 6. Money raised or spent for officeholder expenses shall be reported under campaign finance reporting requirements pursuant to A.R.S. Title 16, Chapter 6, Article 1 as follows:
 - a. The officeholder shall establish an account for officeholder expenses, which shall be separate from any candidate campaign account;
 - b. The account shall be designated on the statement of organization as "Officeholder Expense Account;" and
 - c. Any money remaining in the officeholder expense account after April 30 of an election year shall either not be spent for the remainder of the calendar year, or shall be remitted to the Clean Elections Fund;
 7. Money in the officeholder expense account shall not be used for direct campaign purposes or in connection with the officeholder's future campaign for elective office; and
 8. Permissible uses of the money in the officeholder expense account include:
 - a. Expenditures for office equipment and supplies;
 - b. Expenditures for work-related travel;
 - c. Donations to tax-exempt charitable organizations; or
 - d. Expenditures to meet or communicate with constituents.

- G. A participating candidate may raise early contributions for election to one office and choose to run for election to another office.
- H. If the Commission has reason to believe by a preponderance of the evidence that a participating candidate is not in compliance with the Act or Commission rules, the Commission may decertify a candidate, deny or suspend funding, order repayment of funds, or specify a penalty of no more than \$500.
- I. CONTRIBUTIONS TO OFFICEHOLDER EXPENSE ACCOUNTS ARE SUBJECT TO THE RESTRICTIONS OF A.R.S. § 41-1234.01, CONTRIBUTIONS PROHIBITED DURING SESSION; EXCEPTIONS.**

R2-20-109. Reporting requirements

- A. Reporting of transactions; Secretary of State's computer software. All campaign finance reports shall be filed in electronic format in accordance with A.R.S. §16-958(E). The Commission shall coordinate with the Secretary of State to make electronic-filing computer software available to candidates. If a campaign finance report is specifically requested by a candidate, the Commission will deliver copies of campaign finance reports required under A.R.S. §16-958. Otherwise, such campaign finance reports shall be available on the Secretary of State's web site. All candidates shall file campaign finance reports that include all receipts and disbursements for their current campaign account using the campaign finance computer software provided by the Secretary of State as follows:
 - 1. Expenditures for consulting, advising, or other such services to a candidate shall include a detailed description of what is included in the service, including an allocation of services to a particular election. The Commission may treat such expenditures as though made during the general election period, and equalizing funds pursuant to A.R.S. § 16-952 shall be paid at the start of the general election period.
 - 2. Original and supplemental campaign finance reports filed pursuant to A.R.S. §§ 16-941 and -958 shall include the same information regarding receipts and disbursements as required by A.R.S. §16-915.
- B. Participating candidate reporting requirements. In addition to the campaign finance reports filed pursuant to A.R.S. §16-913, participating candidates shall file the following campaign finance reports and dispose of excess monies as follows:
 - 1. Prior to filing the application for funding pursuant to A.R.S. §16-950, participating candidates shall file a campaign finance report with the names of persons who have made qualifying contributions to the candidate.
 - 2. End of qualifying period. At the end of the qualifying period, a participating candidate shall file a recap campaign finance report consisting of a recap of all early contributions received, including personal monies and the expenditures of such monies.
 - a. The recap campaign finance report for the qualifying period shall be filed with the Secretary of State no later than five days after the last day of the qualifying period and shall include all campaign activity through the last day of the qualifying period.
 - b. If the recap campaign finance report shows any amount unspent by a participating candidate, the candidate, within five days after filing the recap campaign finance report, shall send the Commission a check from the

candidate's campaign account that will remit all unspent early contributions to the fund, pursuant to A.R.S. §16-945(B). Any unspent personal monies shall be returned to the candidate or the candidate's family member within 5 days.

3. Primary election and general election recap campaign finance reports. Each participating candidate shall file a campaign finance report consisting of a recap of all expenditures made in connection with an election, all contributions received in the election cycle in which such election occurs, and all payments made from such candidate's campaign fund to the clean elections fund. If the recap campaign finance report shows any amount unspent by a participating candidate, the **CANDIDATE, WITHIN FIVE DAYS AFTER FILING THE RECAP CAMPAIGN FINANCE REPORT, SHALL SEND THE COMMISSION** a check from the candidate's campaign account that will return all unspent monies to the fund.
 - a. The recap campaign finance report for the primary election shall be filed within five days after the primary election day and shall reflect all activity through the primary election day.
 - b. The recap campaign finance report for the general election shall be considered filed upon the filing of the post-general campaign finance report filed in accordance with A.R.S. §16-913(B)(3).

C. Amending reports. If a candidate determines that a previously filed campaign finance report contains inaccurate information, then the candidate shall amend the campaign finance report to provide accurate information.

1. Except when a new election period has started, a participating candidate who received clean elections funding based upon an inaccurate campaign finance report shall remit to the Commission the excess funds as determined by the amended campaign finance report **WITHIN FIVE DAYS AFTER FILING THE AMENDED CAMPAIGN FINANCE REPORT**.
2. If the participating candidate does not have sufficient funds in his or her account to return the required monies, the balance owed shall be withheld from future matching funds due to the participating candidate in the election period during which the excess funds were awarded.

D. Independent expenditures.

1. Any individual, corporation, political party or membership organization that makes independent expenditures cumulatively exceeding the amount prescribed in A.R.S. §16-941(D) in an election cycle that expressly advocate the election or defeat of a specific candidate, as defined in A.A.C. R2-20-101(10), shall file campaign finance reports with the Secretary of State in accordance with A.R.S. §16-958.
2. The person who fails to file a campaign finance report pursuant to this subsection shall be subject to a civil penalty as prescribed in A.R.S. §16-942(B).
3. In determining whether a communication shall be reported pursuant to A.R.S. §§16-941(D) and -958, the Commission shall consider whether the communication expressly advocates the election or defeat of a clearly identified candidate and was not made in concert with a candidate. In determining that a communication expressly advocates the election or defeat of a candidate, rather

than a communication that advocates in favor of or against an issue, the commission will consider the following 3 components.

- a. Even if it is not presented in the clearest, most explicit language, speech is “express” if its message is unmistakable, unambiguous, and suggestive of only one plausible meaning.
 - b. Speech may only be termed “advocacy” if it presents a clear plea for action, and thus speech that is merely informative is not covered by the Act.
 - c. It must be clear what action is advocated. Speech cannot be “express advocacy of the election or defeat of a clearly identified candidate” when reasonable minds could differ as to whether it encourages a vote for or against a candidate or encourages the reader to take some other kind of action. If any reasonable alternative reading of speech can be suggested, it cannot be “express advocacy” subject to the Act’s disclosure requirements.
- E. The following will be considered to be a "contribution during the election cycle to date" or “expenditures... made through the end of the primary election period" for purposes of reporting under A.R.S. §§ 16-941(B)(2) and 16-958(A):
1. A contribution to a candidate to retire debt from a prior election cycle if deposited into the current campaign account;
 2. Any contributions received and placed in a future, current, or prior, campaign account during the current election cycle;
 3. Surplus funds transferred into the current campaign account;
 4. Contributions received or expenditures made beginning 21 days after the date of the prior general election.

R2-20-111. Books and records requirements

- A. All candidates shall maintain, at a single location within the state, the books and records of financial transactions and other information required by A.R.S. § 16-904.
- B. All candidates shall ensure that the books and records of accounts and transactions of the candidate are recorded and preserved as follows:
 1. The treasurer of a candidate’s campaign committee is the custodian of the candidate's books and records of accounts and transactions, and shall keep a record of all of the following:
 - a. All contributions or other monies received by or on behalf of the candidate.
 - b. The identification of any individual or political committee that makes any contribution together with the date and amount of each contribution and the date of deposit into a campaign account.
 - c. Cumulative totals contributed by each individual or political committee.
 - d. The name and address of every person to whom any expenditure is made, and the date, amount and purpose or reason for the expenditure.
 - e. All periodic bank statements or other statements for the campaign account.
 - f. All activity related to petty cash accounts.
 2. No expenditure may be made for or on behalf of a candidate without the authorization of the treasurer **OR HIS DESIGNATED AGENT**.
 3. Unless specified by the contributor or contributors to the contrary, the treasurer shall record a contribution made by check, money order or other written instrument as a contribution by the person whose signature or name appears on the bottom of the instrument or who endorses the instrument before delivery to

- the candidate. If a contribution is made by more than one person in a single written instrument, the treasurer shall record the amount to be attributed to each contributor as specified.
4. All contributions other than in-kind contributions and qualifying contributions must be made by a check drawn on the account of the actual contributor or by a money order or a cashier's check containing the name of the actual contributor or must be evidenced by a written receipt with a copy of the receipt given to the contributor and a copy maintained in the records of the candidate.
 5. The treasurer shall preserve all records set forth in subsection B and copies of all finance reports required to be filed for three years after the filing of the finance report covering the receipts and disbursements evidenced by the records.
 6. If requested by the attorney general, the county, city or town attorney or the filing officer, the treasurer shall provide any of the records required to be kept pursuant to this rule.
- C. Any request to inspect a candidate's records under A.R.S. § 16-958(F) shall be sent to the candidate with a copy to the Commission, 10 or more days before the proposed date of the inspection. If the request is made within 2 weeks before the primary or general election, the request shall be delivered at least 2 days before the proposed date of inspection. Every request shall state with reasonable particularity the records sought.
1. The inspection shall occur at a location agreed upon by the candidate and the person making the request. If no agreement can be reached, the inspection shall occur at the Commission office. The inspection shall occur during the Commission's regular business hours and shall be limited to a 2-hour time period.
 2. The requesting party may obtain copies of records for a reasonable fee. The Commission shall not be responsible for making copies. The person in possession of the records shall produce copies within a reasonable time of the receipt of the copying request and fees.
 3. The Commission will not permit public inspection of records if it determines that the inspection is for harassment purposes.
 4. If a person who requests to inspect a candidate's records under A.R.S. § 16-958 (F) is denied such a request, the requesting party may notify the Commission. The Commission may enforce the public inspection request by issuing a subpoena pursuant to A.R.S. § 16-956 (C) for the production of any books, papers, records or other items sought in the public inspection request. The subpoena shall order the candidate to produce:
 - a. All papers, records, or other items sought in the public inspection request;
 - b. No later than 2 business days after the date of the subpoena; and
 - c. To the Commission's office during regular business hours.
 5. Any person who believes that a candidate has not complied with this section may appeal to Superior Court.

R2-20-113. Calculation of matching funds

- A. During the primary election period, the Commission shall pay any participating candidate in the same party primary of a nonparticipating candidate, the amount of the nonparticipating candidate's expenditures in excess of the amount over the

primary election spending limit, not to exceed 3 times the original primary election spending limit, as follows:

1. The nonparticipating candidates' expenditures, which are defined as:
 - A. Any purchase, payment, distribution, loan, advance, deposit or gift of money or anything of value made by a person for the purpose of influencing an election in this state;
 - B. A promise or agreement to make an expenditure resulting in an extension of credit; and
 - C. The value of any in-kind contribution received.
 2. If an independent expenditure is made against a participating candidate, the participating candidate will be eligible to receive matching funds, if applicable, for the amount of the independent expenditure. The participating candidate who was the subject of the expenditure will be the only candidate eligible to receive the matching funds, if applicable, for the cost of that ~~COMMUNICATION~~ **EXPENDITURE**.
 3. If an independent expenditure is made in favor of one or more nonparticipating candidates, all participating candidates in the party primary of the candidate favored by the expenditure will be eligible to receive matching funds, if applicable, for the amount of the independent expenditure.
 4. If an independent expenditure is made in favor of a participating candidate, all of the other participating candidates in that party primary will be eligible to receive matching funds, if applicable, for the cost of that ~~COMMUNICATION~~ **EXPENDITURE**.
- B. During the general election period, a participating candidate will receive matching funds ~~EQUAL TO THE AMOUNT THAT EXCEEDS THE GENERAL ELECTION SPENDING LIMIT~~ when the opposing nonparticipating candidate has received in contributions to date, less the amount of expenditures the nonparticipating candidate made through the end of the primary election period, **AN AMOUNT THAT EXCEEDS THE GENERAL ELECTION SPENDING LIMIT**. The Commission shall pay any participating candidate seeking the same office an amount equal to any excess over the general election spending limit, not to exceed 3 times the original general election spending limit, as follows:
1. The nonparticipating candidate's contributions include:
 - a. Surplus funds transferred from previous campaign accounts and deposited into the current campaign account;
 - b. Individual contributions;
 - c. \$25 or less contributions;
 - d. In-kind contributions;
 - e. Political committee contributions;
 - f. Personal monies;
 - g. Candidate or family loans; and
 - h. Other loans.
 2. In accordance with A.R.S. § 16-952, the nonparticipating candidate's contributions shall not include offsets to contributions, including a refund of a contribution to an individual contributor or to a political committee contributor.

3. In accordance with A.R.S. § 16-952(C)(4), when a participating candidate is opposed in the general election by an independent candidate or nonparticipating candidate who was unopposed in the party primary, expenditures made during the primary election period by the nonparticipating candidate or independent candidate will not be included in the calculation of matching funds.
 4. If an independent expenditure is made against a participating candidate, the participating candidate will be eligible to receive matching funds, if applicable, for the amount of the independent expenditure. The participating candidate who was the subject of the expenditure will be the only candidate eligible to receive the matching funds, if applicable, for the cost of that ~~COMMUNICATION~~ **EXPENDITURE**.
 5. If an independent expenditure is made in favor of one or more nonparticipating candidates, all participating candidates in the election for that same office will be eligible to receive matching funds, if applicable, for the amount of the independent expenditure.
 6. If an independent expenditure is made in favor of a participating candidate, all of the other participating candidates in the election for that office will be eligible to receive the matching funds, if applicable, for the cost of that ~~COMMUNICATION~~ **EXPENDITURE**.
- C. Independent expenditures made against a nonparticipating candidate during the primary or general election periods will not be considered in the calculation of matching funds for a participating candidate.
- D. The Commission shall cease to disburse matching funds for an election period after the Wednesday following the primary or general election day.

R2-20-403 Conduct of fieldwork

- A. The Commission will provide the candidate 2 days notice of the Commission's intention to commence fieldwork on the audit and examination. The Commission will conduct fieldwork at a site provided by the candidate. During or after fieldwork, the Commission may request additional or updated information, which expands the coverage dates of information previously provided. During or after fieldwork, the Commission may also request additional information that was created by or becomes available to the candidate that is of assistance in the Commission's audit. The candidate shall produce the additional or updated information no later than 2 days after service of the Commission's request.
- B. On the date scheduled for the commencement of fieldwork, the candidate shall **FACILITATE THE EXAMINATION OR AUDIT BY MAKING RECORDS AVAILABLE IN ONE CENTRAL LOCATION, SUCH AS THE COMMISSION'S OFFICE SPACE, OR SHALL** provide the Commission with office space and records. The candidate's personnel **SHALL BE** present at the site of the fieldwork. ~~Such personnel~~ **THE CANDIDATE** shall be familiar with the candidate's records and operation and shall be available to the Commission to answer questions and to aid in locating records.¹

¹ **THE CANDIDATE AND THE CAMPAIGN COMMITTEE TREASURER SHALL ATTEND THE EXAMINATION, OR SHALL APPOINT SUCH CAMPAIGN WORKERS TO ATTEND**

- C. If the candidate fails to provide adequate office space, personnel or records, the Commission may seek judicial intervention to enforce the request or assess other penalties.
- D. If, in the course of the examination or audit process, a dispute arises over the documentation sought, the candidate may seek review by the Commission of the issues raised. To seek review, the candidate shall submit a written statement within 5 days after the disputed Commission request is made, describing the dispute and indicating the candidate's proposed alternatives.

R2-20-702. Use of campaign funds

- A. A participating candidate shall use funds in the candidate's current campaign account to pay for goods and services for direct campaign purposes only. Funds shall be disbursed and reported in accordance with A.R.S. § 16-948(C).
- B. A participating candidate's payment from a campaign account to a political committee or civic organization is not a contribution if the payment is reasonable in relation to the value received. Payment of customary charges for services rendered, such as for printing voter or telephone lists, and payment of not more than \$150 per person to attend a political event open to the public or to party members shall be considered reasonable in relation to the value received.
- C. A participating candidate shall not use funds in the candidate's campaign account for:
 - 1. Costs of legal defense in any campaign law enforcement proceeding.
 - 2. Food and beverages for staff and volunteers exceeding ~~THE MONETARY LIMITS SET FORTH IN A.R.S. § 38-624~~ **\$7 FOR BREAKFAST, \$7.50 FOR LUNCH, AND \$15 FOR DINNER.**
 - 3. Personal use, which includes any item listed below:
 - a. Household food items or supplies.
 - b. Clothing, other than items of de minimis value that are used in the campaign, such as campaign "t-shirts" or caps with campaign slogans.
 - c. Tuition payments, other than those associated with training campaign staff.
 - d. Mortgage, loan, rent, lease or utility payments--
 - 1. For any part of any personal residence of the candidate or a member of the candidate's family; or
 - 2. For real or personal property that is owned or leased by the candidate or a member of the candidate's family and used for campaign purposes, to the extent the payments exceed the fair market value of the property usage.
 - e. Admission to a sporting event, concert, theater or other form of entertainment, unless part of a specific campaign activity.
 - f. Dues, fees or gratuities at a country club, health club, recreational facility or other nonpolitical organization, unless they are part of the costs of a specific fundraising event that takes place on the organization's premises.
 - g. Gifts or donations.
 - 4. Fixed assets with a value in excess of \$600.

WHO HAVE THE SAME KNOWLEDGE OF THE CAMPAIGN'S FINANCES AND ARE AUTHORIZED TO ANSWER QUESTIONS AND HELP LOCATE RECORDS.

R2-20-703. Documentation for direct campaign expenditures

A. In addition to the general books and records requirements prescribed in A.A.C. R2-20-111, participating candidates shall comply with the following requirements:

1. All participating candidates shall have the burden of proving that expenditures made by the candidate were for direct campaign purposes. The candidate shall obtain and furnish to the Commission on request any evidence regarding direct campaign expenses made by the candidate as provided in subsection 2 of this rule.
2. All participating candidates shall retain records with respect to each expenditure and receipt, including bank records, vouchers, worksheets, receipts, bills and accounts, journals, ledgers, fundraising solicitation material, accounting systems documentation, and any related materials documenting campaign receipts and disbursements, for a period of three years, and shall present these records to the Commission on request.
3. All participating candidates shall maintain a list of all fixed assets whose purchase price exceeded \$300 when acquired by the campaign. The list shall include a brief description of each fixed asset, the purchase price, the date it was acquired, the method of disposition and the amount received in disposition.

~~4. ALL PARTICIPATING CANDIDATES SHALL MAINTAIN RECORDS OF EACH FOOD OR BEVERAGE PURCHASE MADE. EACH RECORD SHALL INCLUDE A LIST OF EACH PERSON WHO CONSUMED THE FOOD OR BEVERAGE.~~

B. Upon written request from a candidate, the Commission shall determine whether a planned campaign expenditure or fund-raising activity is permissible under the Act. To make a request, a candidate shall submit a written description of the planned expenditure or activity to the Commission. The Commission shall inform the candidate whether an enforcement action will be necessary if the candidate carries out the planned expenditure or activity. The Commission shall ensure that the candidate can rely on a “no action” letter. A “no action” letter applies only to the candidate who requested it.

C. Joint expenditures. Expenditures may be made in conjunction with other candidates, but each candidate shall pay his or her proportionate share of the cost. A candidate’s payment for an advertisement, literature, material, campaign event or other activity shall be considered a joint expenditure including, but not limited to, the following criteria:

1. The activity includes express advocacy of the election or defeat of more than 2 candidates;
2. The purpose of the material or activity is to promote or facilitate the election of a second candidate;
3. The use and prominence of a second candidate or his or her name or likeness in the material or activity;
4. The material or activity includes an expression by a second candidate of his or her view on issues brought up during the election campaign;
5. The timing of the material or activity in relation to the election of a second candidate;
6. The distribution of the material or the activity is targeted to a second candidate’s electorate; or

7. The amount of control a second candidate has over the material or activity.
- D. Any expenditure made by the candidate or the candidate's committee that cannot be documented as a direct expenditure shall promptly be repaid to the Fund with the candidate's personal monies.

R2-20-704 Repayment

- A. In general, the Commission may determine that a participating candidate who has received payments from the Fund must repay the Fund as determined by the Commission.
 1. A candidate who has received payments from the Fund shall pay the Fund any amounts that the Commission determines to be repayable. In making repayment determinations, the Commission may utilize information obtained from audits and examinations or otherwise obtained by the Commission in carrying out its responsibilities.
 2. The Commission will notify the candidate of any repayment determinations made under this section as soon as possible, but not later than one year after the day of the election.
 3. Once the candidate receives notice of the Commission's repayment determination, the candidate should give preference to the repayment over all other outstanding obligations of the candidate, except for any taxes owed by the candidate.
 4. Repayments may be made only from the following sources: personal funds of the candidate, funds in the candidate's accounts, and any additional funds raised subject to the limitations and prohibitions of the Act.
 5. The Commission may withhold the portion of Funds required to be repaid from future payments to a participating candidate if the Commission has made a repayment determination.
- B. The Commission may determine that a participating candidate who has received payments from the Fund must repay the Fund under any of the following circumstances:
 1. Payments in excess of candidate's entitlement. If the Commission determines that any portion of the payments made to the candidate was in excess of the aggregate payments to which such candidate was entitled, it will so notify the candidate, and such candidate shall pay to the Fund an amount equal to such portion.
 2. Use of funds not for direct campaign expenses. If the Commission determines that any amount of any payment to an eligible candidate from the Fund was used for purposes other than direct campaign purposes described in A.A.C. R2-20-702, it will notify the candidate of the amount so used, and such candidate shall pay to the Fund an amount equal to such amount.
 3. Expenditures that were not documented in accordance with campaign finance reporting requirements, expended in violation of State or Federal law, or used to defray expenses resulting from a violation of State or Federal law, such as the payment of fines or penalties.
 4. Surplus. If the Commission determines that a portion of payments from the Fund remains unspent after all direct campaign expenses have been paid, it shall so notify the candidate, and such candidate shall pay the Fund that portion of surplus funds.

5. Income on investment or other use of payments from the Fund. If the Commission determines that a candidate received any income as a result of an investment or other use of payments from the Fund, it shall so notify the candidate, and such candidate shall pay to the Fund an amount equal to the amount determined to be income, less any Federal, State or local taxes on such income.
 6. Unlawful acceptance of contributions by an eligible candidate. If the Commission determines that a participating candidate accepted contributions, other than early contributions or qualifying contributions, it shall notify the candidate of the amount of contributions so accepted, and the candidate shall pay to the Fund an amount equal to such amount, plus any civil penalties assessed.
- C. Repayment determination procedures. The Commission's repayment determination will be made in accordance with the following procedures:
1. Repayment determination. The Commission will send a repayment determination pursuant to Article 2, Compliance and Enforcement Procedures, and will set forth the legal and factual reasons for such determination, as well as the evidence upon which any such determination is based. The candidate shall repay, in accordance with subsection D of this rule, the amount that the Commission has determined to be repayable.
 2. Administrative review of repayment determination. If a candidate disputes the Commission's repayment determination, he or she may request an administrative appeal of the determination in accordance with A.R.S. § 41-1092 et. seq.
- D. Repayment period.
1. Within 30 days of service of the notice of the Commission's repayment determination, the candidate shall repay the amounts the Commission has determined must be repaid. Upon application by the candidate, the Commission may grant an extension of time in which to make repayment.
 2. If the candidate requests an administrative appeal of the Commission's repayment determination of this section, the time for repayment will be suspended until the Commission has concluded its review of the Administrative Law Judge's (ALJ) decision. Within 30 days after service of the notice of the Commission's review of the ALJ's decision, the candidate shall repay the amounts that the Commission has determined to be repayable. Upon application by the candidate, the Commission may grant an extension of up to 30 days in which to make repayment.
 3. Interest shall be assessed on all repayments made after the initial 30-day repayment period or the 30-day repayment period established by this section. The amount of interest due shall be the greater of:
 - a. An amount calculated **IN ACCORDANCE WITH A.R.S. § 44-1201(A); OR**
 - b. The amount actually earned on the funds set aside or to be repaid under this rule.